

REMARKS

In the foregoing amendments, claim 6 was amended by defining that the changing means -- without user intervention -- changes at least one of the respective brightness, saturation and hue of said at least one color displayed in said background portion relative to the respective brightness, saturation and hue of said at least one image displayed in said display portion. The change in claim 6 is supported in applicant's specification at, for example, page 8, first complete paragraph. This portion of applicant's specification describes that the changing means functions in response to an illuminance detected by an illuminance detecting means, namely, without user intervention. A similar arrangement is included in present claim 10. The foregoing amendment to applicant's claim 6 is being made to clarify what was already present, either expressly or impliedly, and such amendment is not a narrowing amendment and is not made for reasons substantially related to patentability.

Claims 6-12 are in the application for consideration by the examiner at this time. The Official action set forth a single prior art rejection of claims 6-12 under 35 U.S.C. §103(a) over U.S. patent No. 5,270,818 of Ottenstein (newly cited) in view of U.S. patent No. 5,952,992 of Helms. This rejection is set forth on pages 2-7 of the Official action. Applicant respectfully submits that the inventions defined in claims 6-12 are patently distinguishable from the teachings of Ottenstein and Helms for at least the following reasons.

The teachings of Ottenstein propose a device including two pilot selectable brightness settings, DPU (digital playback units or devices) Brightness 15 and DPU Raster 16. See, for example, column 2, lines 24-28, and the figure of Ottenstein. These apparently control overall brightness and raster brightness. However, the auto brightness control proposed by Ottenstein is designed to automatically adjust brightness to maintain a constant contrast (i.e., between the background and foreground) over changes in the reflected ambient light. See, Ottenstein, for example, at column 3, lines 16-20, and column 4, lines 20-32.

In contrast to the teachings of Ottenstein, the presently claimed invention is directed to changing, without user intervention, at least one of the respective brightness, saturation and hue of the at least one color displayed in the background portion relative to the respective brightness, saturation and hue of the at least one image displayed in the display portion, as set forth in present claim 6. Applicant respectfully submits that the aforesaid changing without user intervention or automatic changing distinguishes present claim 6 from the manual adjustment proposed by Ottenstein. For similar reasons, applicant respectfully submits that the functioning of the changing means set forth in applicant's claim 9, which is based on the illumination detecting means, distinguishes this claim from the manual adjustment proposed by Ottenstein.

In applicant's claimed invention, such as set forth in independent claims 6 and 10, the *difference* in the brightness, saturation and/or hue between the background color and the foreground color is changed by the changing means without user intervention and/or in response to ambient light conditions. In contrast thereto, in the teachings of Ottenstein, the brightness, contrast, and color of the entire display are automatically changed, not portions thereof relative to each other (i.e., the foreground relative to background) as required in applicant's claims or the display is manually changed. Therefore, applicant respectfully submits that the teachings of Ottenstein cannot contemplate or suggest the inventions as set forth in present claims 6 and 10 where the changing means changes, without user intervention or in response to a signal from the illumination detecting means, at least one of the respective brightness, saturation and hue of the color displayed in the background portion relative to the respective brightness, saturation and hue of the at least one image displayed in the display portion.

The teachings of Helms do not cure or rectify the aforesaid deficiencies in the teachings of Ottenstein. The teachings of Helms propose adjusting the brightness level of an LCD based on ambient lighting conditions through the use of a backlight driver circuitry that includes a photo-detector indicating the level of ambient light striking the front of the LCD. In the type of LCD proposed in Helms the brightness of the entire displays changes including the foreground image and the background color, so that there is a same difference

in brightness in the background and the foreground as before the change. In other words, there is no change in brightness between the background color and a foreground image within the teachings of Helms. On the other hand, in applicant's claimed invention, the difference in the brightness, saturation and/or hue between the background color and the foreground color is changed by the changing means, either without user intervention or in response to a signal from the illumination detecting means.

Applicant respectfully submits that the combined teachings of Ottenstein and Helms could not motivate one of ordinary skill in the art to the invention set forth in the present claims within the meaning of 35 U.S.C. §103. In particular, applicant respectfully submits that is impossible and improper to include the teachings of Helms into the teachings of Ottenstein, because such a combination of teachings would destroy the invention described in Ottenstein. The courts have repeatedly held that references cannot properly be combined, if the effect would destroy the invention on which one of the references is based. *In re Randol and Redford*, 165 USPQ 586 (CCPA 1970); *Ex parte Thompson*, 184 USPQ 558 (PTO Bd. Pat Apps. & Interf. 1974); *Ex parte Hartman*, 186 USPQ 336 ((PTO Bd. Pat Apps. & Interf. 1976).

The teachings of Ottenstein may be summarized as proposing the following:

(1) an auto brightness control to automatically adjust brightness to maintain a constant contrast (i.e., between the background and foreground) based on changes in the reflected ambient light, and

(2) a manual brightness adjustment control (adjusted by the pilot) that varies contrast.

The aforesaid dual relationship is required in the device proposed by Ottenstein. In the outstanding Office action, it appears that the teachings of Helms were used to suggest modifying the manual brightness adjustment control (2) of Ottenstein to include the function of an auto brightness control (1) of Ottenstein. However, applicant respectfully submits that such a substitution is improper, because it would destroy the auto brightness control (1) proposed by Ottenstein which maintains a constant contrast. In addition, applicant respectfully submits that the combination of these teachings is also improper, because it would destroy the function of or need for a manual brightness adjustment control (2) proposed by Ottenstein. For these reasons, applicant respectfully submits that the proposed combination of the teachings of Ottenstein with those of Helms is improper within the meaning of 35 U.S.C. §103.

For at least the foregoing reasons, applicant respectfully submits that the combined teachings of Ottenstein and Helms cannot contemplate or suggest

the inventions defined in present claims 6 and 10, or the claims that depend thereon. Therefore, applicant respectfully requests that the examiner reconsider and withdraw the rejection of claims 6-12 over these teachings.

In view of the foregoing amendments and remarks, favorable consideration and a formal allowance of claims 6-12 are respectfully requested. While it is believed that the present response places the application in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolved any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which may become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,
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